

Message Text

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PAGE 01 JAKART 02509 251358Z

ACTION EA-09

INFO OCT-01 ISO-00 EB-08 SS-15 L-03 SP-02 PRS-01 INR-07

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FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC PRIORITY 9452

C O N F I D E N T I A L JAKARTA 2509

STADIS////////////////////////////////

E.O. 11652: GDS

TAGS: ENRG, EFIN, ID

SUBJECT: GOI REACTION TO IRS PROBLEM

REF : STATE 031683

1. WORD OF IRS MEETINGS WITH US OIL COMPANIES HAS BEEN CONVEYED TO GOI BY THOSE FIRMS INVOLVED. LATEST IRS POSITION (REFTEL), PARTICULARLY ON CONSOLIDATION, IS VIEWED WITH GREAT CONCERN WITHIN PERTAMINA AND MIGAS.

2. EMBOFF DISCUSSED MATTER WITH GOZALI (SECRETARY PERTAMINA BOARD OF COMMISSIONERS AND KEY MINES MINISTER SADLI AIDE) ON FEB 25. GOZALI SAID IRS INSISTENCE ON CONSOLIDATION OF ACCOUNTS IS "NOT ACCEPTED AS A GOOD GESTURE FROM THE IRS." HE MADE IT CLEAR, AS HE HAS DONE IN PAST, THAT THIS CONSOLIDATION REPRESENTS SERIOUS POLITICAL PROBLEM FOR INDONESIANS. BY HAVING COMPANIES CONSOLIDATE THEIR LOSSES AND GAINS ON ALL CONTRACT AREAS, GOI COULD ACTUALLY SUFFER ADVERSE CHANGE IN ITS NET "TAKE." THIS, IN TURN, COULD LEAVE INDONESIANS WORSE OFF THAN UNDER OLD 65/35 TERMS. THIS WOULD BE UNACCEPTABLE FOR OBVIOUS POLITICAL REASONS, PARTICULARLY DURING CAMPAIGN PERIOD.

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3. GOI HAS ASKED LEGAL ADVISORS ROGERS AND WELLS TO COME TO JAKARTA SOONEST FOR BRIEFINGS ON CURRENT SITUATION. PETER FISHER OF RW IS REPORTEDLY DUE IN OVER WEEKEND (AS IS NATOMAS' TAX COUNSEL).

4. PERTAMINA, MIGAS, AND OTHER GOI DEPARTMENTS ARE MEETING TOMORROW TO COMPLETE WORK ON FINAL TAX DECREE.

WE POINTED OUT TO GOZALI NEED FOR CLOSE COOPERATION BETWEEN INDUSTRY AND PERTAMINA ON THIS MATTER. DECREE WILL PROBABLY NOT BE ISSUED IN ANY EVENT UNTIL FISHER AND HOPEFULLY SOME OF THE COMPANIES HAVE HAD OPPORTUNITY TO REVIEW IT. THOSE COMPANIES WHO HAVE SEEN ADVANCE COPY OF REPORT SAY THAT DRAFT CONTAINS SOME LANGUAGE WHICH MIGHT NOT BE ACCEPTABLE TO IRS.

5. COMMENT: TO MANY, UNFORTUNATELY, THESE LATEST MOVES APPEAR TO REPRESENT LACK OF GOOD FAITH ON PART OF IRS. INDONESIANS FEEL THEY HAVE DONE THEIR PART BY MAKING SUBSTANTIAL ALTERATIONS IN CONTRACTS TO MEET ORIGINAL IRS CONCERNS ABOUT TAX PAYMENT PROCEDURES AND QUESTION OF ECONOMIC INTEREST. THERE IS UNVOICED FEAR WITHIN PERTAMINA, WHICH HAS LONG WORKED CLOSELY WITH INDUSTRY, THAT CONTINUED OBSTACLES IMPOSED BY IRS PLAY INTO HANDS OF THOSE IN GOI WHO FEEL THAT THIS IS AMERICAN MATTER IN WHICH INDONESIA HAS NO BUSINESS GETTING INVOLVED. THERE IS ALSO SUSPICION THAT IRS ACTION MAY BE DESIGNED SOMEHOW TO INCREASE COMPANIES' TAKE, PARTICULARLY SINCE IT COMES ON HEELS OF GOI'S ILL-RECEIVED INCENTIVES PACKAGE. EMBASSY AGAIN WISHES TO STRESS THAT IRS RULING MUST BE VIEWED AS MORE THAN SIMPLE TAX MATTER. FAILURE TO ACHIEVE SATISFACTORY RESOLUTION COULD HAVE FAR-REACHING CONSEQUENCES ON PETROLEUM SECTOR AND COULD ALSO HAVE ADVERSE IMPACT ON COMMERCIAL US INTERESTS IN INDONESIA.

GARDNER

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